

The Hon Josh Frydenberg MP
Treasurer of Australia
via tsrcorro@treasury.gov.au

30 November 2020

CC: The Hon Paul Fletcher MP
Minister for Communications, Cyber Safety and the Arts
via minister@communications.gov.au

Dear Treasurer,

As you would be aware the Institute of Public Affairs (IPA) has long been concerned about issues of freedom of speech in Australia. The IPA strongly supports freedom of the press in Australia and opposes the existence of government owned and operated media organisations.

For example, in 2012 the IPA strongly opposed the recommendations of the Finkelstein Inquiry into the media, and proposals by Labor and the Greens to appoint a government censor on the media. The IPA strongly opposed this as a *de facto* licensing scheme for the printed and online media.¹

You might be aware of the IPA's position on the Australian Broadcasting Corporation (ABC), that its existence as a government owned and operated broadcaster is incompatible with a free society.

It is within this context that the IPA has undertaken analysis of the reported policy proposal² to include the ABC in the draft news media and digital platforms mandatory bargaining code.

The IPA's conclusion is that the ABC should not receive additional funds as to do so would further distort diversity in the media. The ABC does not represent a range of perspectives. The ABC is increasingly out of touch with mainstream Australians.

The ABC's funding is guaranteed by government through taxpayers; therefore, it is not affected by loss in advertising revenue that affects the commercial broadcasters.

It is concerning that a Coalition government is considering a new financial windfall for the ABC on top of its annual \$1.2 billion in public funding.

¹ IPA briefing paper - The Finkelstein Report into Media and Media Regulation Licensing, censorship and accountability – Chris Berg 2012 https://ipa.org.au/wp-content/uploads/archive/1331177474_document_070312_-_finkelstein_briefing_paper_1.pdf

² Exclusive, Google and Facebook news payments to include ABC and SBS after change to draft code – Guardian Australia – 25 November 2020 <https://www.theguardian.com/media/2020/nov/25/google-and-facebook-news-payments-to-include-abc-and-sbs-after-change-to-draft-code>

While the commercial media has incurred great financial damage as a result of the COVID pandemic, the ABC has remained untouched. ABC staff even voted to reject the government's request to take a six month pay freeze in line with other non-APS agencies, instead voting to give themselves a two percent pay rise.³

On the question of including of the ABC and the Special Broadcasting Service (SBS) in the code, ACCC Chairman Rod Sims said:

“It’s complicated because at the moment the ABC is publicly funded. If they start getting into this sort of game...because they are now significantly commercially funded (from the platforms), that might change the nature of them.

“We just felt it was an area that was really complicated so we stayed out of it. And of course, if the platform's got more money, there was nothing to stop the government from taking it off them. This whole notion of do you want the public broadcaster influenced by commercial payments...is why I can sort of understand why the government's gone where they've gone.”⁴

Supporters of a publicly funded broadcaster often boast that the ABC’s “independence” and “fact-based journalism” is due to the fact it is “free from commercial influence or interests”.⁵

As Mr Sims suggests, if the ABC were to be included in the revenue sharing arrangements that are part of the mandatory media code legislation, then a key revenue stream for the ABC will be dependent on the commercial success of Facebook and Google.

One of the ABC’s key editorial standards is to “Ensure that editorial decisions are not improperly influenced by political, sectional, commercial or personal interests.”⁶

The ABC is completely taxpayer-funded. Accordingly, it is not affected by the same loss in advertising revenue claimed by the commercial broadcasters because of the influence of Google and Facebook.

The ACCC pointed towards falling advertising revenue amongst commercial media as the impetus for the code.

For many news media businesses, the expanded reach and the reduced production costs offered by digital platforms have come at a significant price. For traditional print (now print/online) media businesses in particular, the rise of the digital platforms has marked a continuation of the fall in advertising revenue that began with the loss of classified advertising revenue in the early days of the internet. Without this advertising revenue, many print/online news media businesses have struggled to

³ ABC staff vote against pay rise freeze despite government push – Sydney Morning Herald – 30 September 2020

⁴ ABC, SBS exclusion from tech giants’ payments a ‘government’ decision – Sydney Morning Herald – 3 August 2020 <https://www.smh.com.au/politics/federal/abc-sbs-exclusion-from-tech-giants-payments-a-government-decision-20200731-p55hfh.html>

⁵ ABC Chairwoman Ita Buttrose, Ramsay Centre for Western Civilisation Lecture, 12 November, 2020 <http://about.abc.net.au/speeches/the-abc-democracy-and-the-importance-of-press-freedom/>

⁶ ABC Editorial Guidance note: Key Editorial Standards <https://edpols.abc.net.au/guidance/external-work-and-editorial-conflicts/>

survive and have reduced their provision of news and journalism.

While recognising the important function that public broadcasters, the Australian Broadcasting Corporation (ABC) and Special Broadcasting Service Corporation (SBS), perform in providing news and journalism across Australia, the Australian Competition and Consumer Commission (the ACCC) considers that commercial news media businesses perform a central role in providing journalism and contributing to media plurality.⁷

The idea that the ABC, which is entirely funded by the government, would be a beneficiary of this scheme puts a lie to the idea that the mandatory media code is about levelling the playing field between news media businesses and digital platforms⁸ due to a loss in advertising revenue.

You were correct in pointing this out a few months ago when setting on the pathway of a mandatory code:

Importantly, the bargaining arrangements relating to the payment of remuneration will not be available to public broadcasters as they are principally funded by the government and not through advertising revenue. Public broadcasters will, however, benefit for the minimum standards for non-remuneration matters set out in the draft mandatory code.⁹

The IPA supports reform models like turning the ABC into a subscription service, as is being proposed in the United Kingdom for the BBC, ABC privatisation or amending the *Australian Broadcasting Corporation Act 1983* to allow the ABC to air advertising.

If the government's intent is to commercialise the ABC in this way while maintaining the existing funding arrangements, the IPA suggests going one step further and reforming the ABC so that it is no longer funded by taxpayers.

The IPA supports the continued existence of the ABC, but not an ABC that is funded by taxpayers.

The suggestion that Google and Facebook may only show ABC and SBS news services on its platforms were they not to be included in the revenue sharing arrangements as part of the mandatory code is the kind of unintended consequence that always comes from attempts to regulate a particular market. However, allowing the ABC to demand money from private companies would make this even worse.

An outcome of these unintended consequences should not be to advantage the ABC. The IPA recommends that any funds calculated to go to the ABC should be returned to taxpayers.

⁷ ACCC Digital Platforms Inquiry – Final Report

⁸ Digital Platforms need to play by the rules – Josh Frydenberg – 29 July 2020 – The Australian <https://joshfrydenberg.com.au/latest-news/digital-platforms-need-to-play-by-the-rules/>

⁹ Digital Platforms need to play by the rules – Josh Frydenberg – 29 July 2020 – The Australian <https://joshfrydenberg.com.au/latest-news/digital-platforms-need-to-play-by-the-rules/>

The ABC is already funded by every Australian taxpayer, but the proposed code would allow the ABC to be funded directly by Google and Facebook as well for loss in advertising revenue when it does not even accept advertising in the first place.

While the IPA does not support the mandatory media code, there is merit in the proposal for the SBS to be included in the revenue sharing arrangements since its intent is to counter a reduction in advertising revenue from the presence of Google and Facebook.

Given the SBS engages in digital advertising across its websites, the SBS should be entitled to a commensurate amount agreed upon through the code.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Evan Mulholland', with a stylized, flowing script.

Evan Mulholland
Director of Communications
Institute of Public Affairs